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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's Rules)	PR Docket No. 92-257
Concerning Maritime Communications)	
)	
Petition for Rule Making filed by)	RM-9664
RegioNet Wireless License, LLC)	

To: Chief, Wireless Telecommunications Bureau

**Petition for Reconsideration
of Warren C. Havens**

Warren C. Havens ("Havens") hereby submits a petition for clarification and in the alternative a petition for reconsideration (the "Petition") regarding certain paragraphs in the Forth Report and Order contained in the above-captioned document. I currently hold AMTS authorizations to serve five inland navigable waterways¹ and have pending applications to provide AMTS services to numerous other such waterways.

When, in the Petition, I comment on other AMTS licensees, I do not mean to comment on any past matters with respect to Paging Systems, Inc. since I do not have the basis to do so: I have not substantially reviewed information with respect to its AMTS licenses and operations.

AMTS Rules in Relation to other Radio Services. As far as practical at this time, AMTS rules should be sufficiently consistent with the rules for 220-222 MHz and IVDS

¹ These AMTS license are for multi-site systems serving: the Carson River, Nevada, Lake Meade, Nevada, Great Salt Lake, Utah, and the Verde River and the Salt River, both in Arizona. These are all waterways in the the mountains of the Western United States. As noted futher on in this Petition the interference contours of these systems extend to remote areas with little population.

to allow for systems and end-user radios that utilize two or all three of these adjacent radio services. There is a strong probability that, to a substantial degree, the market will tend in this direction, following the almost universal trend in wireless (and most other industries) to consolidation of infrastructure assets and service offerings over wide area. A few particular proposals are made below with respect to the Final Rules in the Forth Report and Order.

Fill-in Stations. Report and Order paragraph 12, and corresponding rule change:
The Decision in paragraph 12 provides:

. . . we will revise our Rules to eliminate the application and engineering study requirements and . . . for new AMTS stations whose predicted interference contours do not encompass any land area beyond the composite interference contour of the applicant's existing system. . . .Fill-in stations . . . [herein, "Fill-in Stations"]

The corresponding revised Final Rule adds: "or the proposed station's predicted interference contour extends the system's composite interference contour over water only (disregarding uninhabited islands)" as further definition of a Fill-in Station. (From 80.475(b). Also in 80.215(h)(2).)

1. Meaning of "Existing System" and related. By the term "existing system," does the FCC mean the existing licensed system, whether not any or all licensed transmitter stations that together constitute the "existing system" ("Component Stations") have been timely placed into operation and kept in operation (the "Licensed System"), or, does this term mean only the portion of such licensed system made up of the Component Stations that have been so placed and kept in operation (the "Operational System")? If the FCC means the latter (Operational System), then I propose the former (Licensed System)². The

² In Comments I will be submitting with respect to the Proposed Rules for AMTS set forth in the Report and Order contained in the above-captioned document, I will not why in my view this Fill-

confusion is in the use of the word "existing" which may imply a station that has been put into operation or "existence" as opposed to merely authorized.

The interpretation I propose would be in the public interest. AMTS involves multi-site systems to cover a waterway (coastal or inland) in which, often, it makes or will make most business sense to place the licensed Component Stations in operation sequentially, first covering the area of most demand, and adding others later. Fill-in stations may be needed to augment some Component Stations placed into operation prior to all of the Component Stations being placed into operation, and those Fill-in stations may be within the predicted interference contours of the Licensed System, but not within the interference contours of the Component Stations that have been, at such point in time, placed into operation.

2. "Predicted Interference Contours" and related. For this Fill-in Station rule to be effective, the FCC must define what is meant by "predicted interference contours." For the rule to be fair, it must be adopt standards that apply equally to all licensees, regardless of what service contours and interference contours they have used in their respective applications, Petitions to Deny, and other FCC filings. For the rule to be practical, and not undermine the goals of new licensing in the Third Further Notice of Proposed Rulemaking, it must have one standard for "Fill-in" of service coverage over open water (territorial Seas of the United States, and the Great Lakes: herein together, "Territorial Seas"), and a different one for "Fill-in" of service coverage over land (of inland navigable water bodies and adjacent land area in coverage range of such water bodies; and land areas adjacent to such territorial seas). These are all discussed below.

In Station rule change, interpreted either way described above, must be accompanied by certain additional rule changes to avoid abuse and be more clearly in the public interest.

This Fill-in Station rule allowance is, in reality, a means to obtain additional licensed sites not subject to the "freeze" on new AMTS station licensing imposed in conjunction with the release of the Fourth Report and Order and Third Further Notice of Rulemaking in this Docket. Unless measures as I propose below are adopted, this so-called "Fill-in Station" allowance will, in reality, become a primary or an essential means for some AMTS licensees to perpetuate warehousing of AMTS covering most of the commercially important areas of the United States. It will not at all result in what it appears intended to provide-- for "fill-ins" here and there of areas difficult to cover ("Supplemental Stations") in the otherwise satisfactory, realistic service contours of the Licensed Systems' Component Stations ("Primary Stations"). Instead, it will become the means to convert and salvage Licensed Systems that have employed bogus system engineering for purposes of warehousing--that had Primary Stations spaced far too far apart for commercial viability, at least with respect to coverage over land including navigable inland waterways, and much of the coastlines of the United States which are quite rugged,³ ("Non-Realistic Systems") into ones that can become commercially viable,

³ This includes, unrealistic coverage of inland navigable rivers, since most all radio propagation from Component Stations covering such rivers take place from such Stations over land before covering the relatively small amount of water in relation to the amount of land covered. Also, it is questionable if the referred to spacing provides realistic continual coverage even over much of the coastlines of the United States' territorial Seas and Great Lakes that have rugged coastlines. A review of Component Stations authorized by the FCC call into question whether in real-life these provide even close to continuous coverage along the shipping routes close to and to harbors along these coastlines. The radio transmissions from such sites travel over coastal mountain ridges before reaching rugged coastlines and would be blocked from reaching much of the coastline and distances out from the coast. The theoretical RF contour modeling used in the applications do not reveal such real-life coverage problems.

In this regard, the FCC accepted such licensee-applicant proposed spacing (based on such modeling), I assume, with the understanding that the licensees used realistic engineering to meet the FCC's continuous-coverage rule, and would, in fact, after licensing, actually provide AMTS service to marine traffic and stand ready to demonstrate these to the FCC: to demonstrate that in fact they are providing continuous coverage to actual marine traffic. *The FCC should at this time*

by use of "Fill-in Stations" that are in fact Primary Stations-- needed for real-life coverage.

Such Non-Realistic Systems served well to warehouse AMTS spectrum for years in most major market of the US. They were not planned for actual continuous coverage as required under FCC rules, but planned with sites spaced for the minimum cost (in application engineering and post-application-grant costs to maintain the licenses).⁴ This should not be encouraged and perpetuated by ill-defined rules for Fill-in Stations.

Proposal: There should be one definition or standard with respect to service over Territorial Seas ("Sea Service" and "Sea Contour Standard") and another, encompassing less territory (smaller contours) appropriate for service over the land, herein meaning all areas other than actual radio propagation over Territorial Seas (including, but not limited to: land areas adjacent to Territorial Seas, inland navigable waterways, and land adjacent thereto) ("Land Service" and "Land Contour Standard"). For the Land Contour Standard, I propose the standard described in all my applications for AMTS licenses.⁵

The Licensee planning the Fill-in Station (in this paragraph, the "Licensee") would be required to notify the FCC of all technical operating parameters of the Fill-in Station

require proof. The FCC should not at this time allow "Fill-in Stations" to cure systems that were defective from the start-- that were not planned for real-life service, that have not achieved it, and that did not comply with the FCC requirement to provide continuous coverage. Such continuous-coverage rule could not reasonably be interpreted to mean-- continuous coverage only per theoretical modelling but not possible or demonstrated in real life; and AMTS operations can not mean-- wireless services that use AMTS frequencies but that are not marketed to nor provided to users in vessels on the subject waterways: yet both appear to preclude AMTS.

⁴ Costs to lease transmitter site facilities, and costs of transmitter equipment, maintenance, etc.

⁵ This standard, and all the engineering in these AMTS applications of mine, was prepared by Fox Ridge Communications of Gettysburg, Pennsylvania. Fox Ridge set forth the reasons for such standards in these applications, as well as in my Reply to the Watercom Petition to Deny my applications for AMTS licenses in Texas.

prior to placing it in operation, along with a clear statement as to whether it will be used for solely for Sea Service or to any extent for Land Service. If to be used solely for Territorial Sea Service (for example, a Fill-in Station overlooking a jagged coastline filling-in a "hole" in coverage from the Primary Stations and not intended for any Land Service) then the Sea Contour Standard would be employed. If, however, any Land Service is to be provided by the planned Fill-in Station (for example, a Fill-in Station as just described along a coastline, but intended to also serve population, highways, and/or users on inland navigable waterways which the Licensee was also licensed to serve), then the Land Contour Standard would be solely employed. See Exhibit 1 for a depiction related to the matters in the above paragraph.

The reason for this proposal are 1) radio propagation over large open bodies of water is substantially greater than over land in most all cases,⁶ and 2) without using a realistic contour for service over land, incumbent (and potential future) licensees can more easily continue with warehousing spectrum, which has been a prevalent condition in much or most of AMTS licensing to this day, as noted above. This will lead to less spectrum available for new licensing via competitive bidding and geographic licensing as proposed in (or other licensing as may result from) the Third Further Notice of Proposed Rule Making in the Docket captioned above, and blocking of parties who obtain AMTS licenses via such new scheme.

Further to the above: As I have written, with evidence, in previous filings with the FCC,⁷ many of such stations have not, in their extended periods in existence, been

⁶ See, e.g. any of the applications I have submitted for AMTS in which this is discussed. See also my Reply to the Watercom Petition to Deny my AMTS applications in Texas.

⁷ Various Petitions to Deny and responses to Petitions to Deny,

substantially operated (or operated at all) for providing AMTS service to marine traffic on the seas, but rather, have been a means to obtain and hold large ("warehouse") large amounts of AMTS in major US markets along the Atlantic and Pacific Coasts, the Great Lakes, and other major bodies of water. Use of "Fill-in Stations" in such systems to now obtain realistic commercially-viable coverage (not just enhancements, but the type of fundamental coverage that should have been engineered and proposed to the FCC in the first place, when submitting for a license, or at least well before years of warehousing have taken place) for land-based wireless services is an inappropriate concession. It would simply be a further means to maintain such warehousing and block service by licensees who acquire geographic licenses spanning the areas with the AMTS warehoused with the aid of such Fill-in Stations. For example, if such a licensee had been allowed a contour so large as to cover all of the California Coast and all its inland areas with three stations (to use an extreme example to make the point), and then to use "Fill-in Stations," such licensee would have been granted a license based on an unrealistic proposed system (that never would, in real life, provide commercially viable multi-site coverage, especially over land) to warehouse at low cost (easy to engineer such a system application, and cheap to build and maintain it to sustain the warehousing) the subject AMTS in California, and then, via the Fill-in Stations, turn it into a real system. The proposal I made above would in large part prevent this, yet allow legitimate "Fill-in Stations" as described in this proposal.

3. Fill-in Stations with contours beyond existing contours. As noted above, 80.475(b) provides that proposed stations include those that extend the existing system's interference contours only over water or uninhabited islands. I propose that this be modified to include, at the end, language to this effect: "or whose proposed interference

contours [Sea Contours or Land Contours, as the case may be],⁸ upon a showing to the FCC,⁹ cover only land area whose usage by persons is minimal (i.e., that is functionally the equivalent to that of the above-described open water or uninhabited islands)." I propose this since there are areas of land adjacent to some inland waterways, including those I am licensed to serve, that are basically desolate, however the subject waterway in such areas is used. For example, Fill-ins Stations I am considering to serve the eastern part of Lake Meade (a very difficult area due to the Lake in real-life being in a deep jagged canyon) would greatly enhance service to that part of the Lake, which gets substantial use, but it would also extend the Licensed System's contours over the nearby land. Such nearby land is virtually unpopulated. Similar situations exist with many other licenses.

Fixed Services. Paragraph 14 and new amended rule. The FCC should clarify what it means in the first sentence, in particular, by " . . . to support AMTS deployment in remote fixed locations at which other communication facilities are not available."¹⁰

Fixed or Hybrid Services. Paragraph and related new amended rule. The FCC should clarify what is meant by "fixed or hybrid services on a co-primary basis with mobile operations."

⁸ Per my proposal in the text above.

⁹ This would leave it to the FCC to determine whether to accept such showing or not. The FCC could weight the value to the licensee and public of increased Fill-in Station service to the subject waterway vs. Its apparent goals to retain AMTS spectrum for new licensing arrangements.

¹⁰ A vague rule apparently providing benefits can be worse than a prohibition in that one competitor and his professional advisors may interpret it conservatively, and others may do the opposite, resulting in disputes before the FCC, delays and changes in systems and service, etc. For example, even if a licensee may rightfully interpret a vague rule in his or her favor, parties considering financial support or strategic partnerships related to such license may balk at development and operation based on vague rules.

Modulation and Channelization. I propose that an AMTS be permitted to use any amount of its licensed spectrum for uplinks or downlinks, whether in symmetrical pairs or not, including use of all such spectrum for either uplinks or downlinks paired with frequencies in the 220 MHz service for the other pair (downlinks or uplinks). This will allow more technical flexibility and more range of services, including achieving more separation between uplink and downlink and thus more effective and cost-effective duplexing, possibly even in mobile and handheld units for certain full-duplex services.

Respectfully submitted,

Warren C. Havens
(via electronic filing)

January 12, 2001

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Exhibit